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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,274	04/02/2004	Robert F. Zenisek		2297

7590  
ROBERT F. ZENISEK  
41 E. CAMPUS CT  
RACINE, WI 53402

01/12/2007

EXAMINER

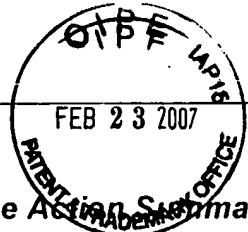
BARFIELD, ANTHONY DERRELL

ART UNIT	PAPER NUMBER
	3636

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.



**Office Action Summary**

FEB 23 2007

Application No.

10/817,274

Applicant(s)

ZENISEK, ROBERT F.

Examiner

Anthony D. Barfield

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                          2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/2/04.

4) Interview Summary (PTO-413)

Paper No(s)/Mail Date: \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

Art Unit: 3636

**DETAILED ACTION*****Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, applicant has disclosed an article of furniture in the preamble and then recites a stepped stool as the invention in the remaining claims. Applicant must clarify, i.e., "An article of furniture comprising a stepped school". In claims, 3-4, the phrase "defined in the residential building codes", renders the claims indefinite as the applicant must clarify and explicitly recite the code and year (of adoption/enforcement) in order to properly rely on such for definition.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Santa Cruz et al. Santa Cruz et al. shows the use of an article of furniture comprising a stepped stool (10) having a pair of side frames (see Fig. 4) supporting a seat (15) and a footrest (14). The footrest is further strengthened by cross braces (20,30). Santa Cruz et al., further

Art Unit: 3636

discloses that the stepped stool is made from wood, metal, plastic and with the use of screws (see col. 2, liens 30 and 59) where the footrest may be adjusted in a vertical manner depending where it is locked along the recess in the side frames.

5. Claims 1-7, and 9 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Kneier (2002/0060491). Kneier shows the use of an article of furniture comprising a stepped stool (10) having a pair of side frames (14) supporting a seat (10) and a footrest (12). The footrest is further strengthened by cross braces (30,32). Kneier, further discloses that the stepped stool is made from wood, metal, plastic and with the use of screws (see pg. 3, paragraph 47) and includes armrests (58,60).

6. Claims 10-12 are as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Whiteside et al. Whiteside et al shows the use of an article of furniture comprising a stepped stool (10) having telescoping legs (17,24) which support a seat (51) and a footrest (29). Whiteside et al., further shows that the stepped stool is made metal, and the legs have a plurality of holes (27) and locking pins (28,31).

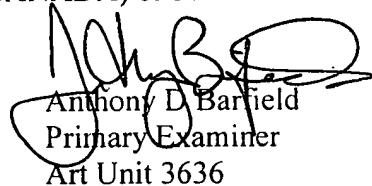
### *Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reference Nos. 2,658,640, 4,727,958 and 6,957,718 show features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Barfield whose telephone number is 571-272-6852.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Anthony D. Barfield  
Primary Examiner  
Art Unit 3636

adb  
January 6, 2007



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PTO/SB/08a (08-03)

Approved for use through 07/31/2006. OMB 0651-0031

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Substitute for form 1449A/PTO

## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

Sheet

1 of 2

### Complete If Known

Application Number	
Filing Date	APRIL 2, 2004
First Named Inventor	ROBERT F. ZENISEK
Art Unit	
Examiner Name	
Attorney Docket Number	

### U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No.*	Document Number Number-Kind Code <sup>3</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
AB		US 48, 638	7-11-1865	C. S. ADAMS	P2, 11-14
		US 110, 340	12-20-1870	D. H. JAMES	P2, 14-17
		US 155, 016	9-12-1874	M. EBERHARD	P3, 10-14
		US 322, 792	7-21-1885	J. S. CLARK	P2, 17-19
		US 430, 947	6-24-1890	A. B. HELLER	P4, 4-8
		US 590, 268	9-31-1897	C. A. LEE	P2, 26-35
		US 694, 538	3-4-1902	W. A. EDDY	P3, 14-16
		US 1, 216, 172	2-13-1917	L. O. SCHULZ	P3, 11-14
		US 1, 249, 882	12-11-1917	F. ARNETT	P3, 17-19
		US 1, 505, 829	8-19-1924	H. W. WARNECKE	P3, 21-26
		US 1,694, 146	12-4-1928	D. S. SATTLER ET AL	P2, 25-26 P3, 1-2
		US D139, 897	1-2-1945	R. SMITH	P3, 2-4
		US 2,629, 979	2-17-1953	H. M. SCHULTZ	P3, 22-26
		US 2,666, 210	1-19-1954	H. A. WILEY	P4, 9-11
		US D173, 804	1-4-1955	R. GOLDMAN ET AL	P4, 11-16
		US 3,736, 023	5-29-1973	W. L. LYONS	P4, 16-19
		US 4,317, 309	3-22-1983	H. C. MENGSHOEL	P4, 26-29
		US 6,145, 931	11-14-2000	S. SUPOTIC	P4, 25-26 P5, 1-7

### FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No.*	Foreign Patent Document Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>3</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>6</sup>

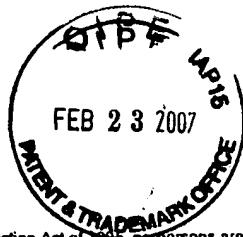
Examiner Signature

Date Considered

1/10/07

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. 1 Applicant's unique citation designation number (optional). 2 See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 801.04. 3 Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). 4 For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. 5 Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.18 if possible. 6 Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.



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## **INFORMATION DISCLOSURE STATEMENT BY APPLICANT**

*(Use as many sheets as necessary)*

Sheet

2 of 2

Complete if Known	
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First Named Inventor	ROBERT F. ZENISEK
Art Unit	
Examiner Name	
Attorney Docket Number	

**U. S. PATENT DOCUMENTS**

## **FOREIGN PATENT DOCUMENTS**

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Examiner Initials*	Cite No.*	Foreign Patent Document	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



<b>Notice of References Cited</b>	Application/Control No. 10/817,274	Applicant(s)/Patent Under Reexamination ZENISEK, ROBERT F.	
	Examiner Anthony D. Barfield	Art Unit 3636	Page 1 of 1

#### U.S. PATENT DOCUMENTS

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A US-6,378,720 B1	04-2002	Santa Cruz et al.	182/91
*	B US-6,957,718 B1	10-2005	Whiteside et al.	182/129X
*	C US-4,727,958	03-1988	Botello, Roger N.	182/15
*	D US-2,658,640	11-1953	BAYLES DONALD C	182/129
E	US-			
F	US-			
G	US-			
H	US-			
I	US-			
J	US-			
K	US-			
L	US-			
M	US-			

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#### NON-PATENT DOCUMENTS

*	Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)		
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